

REMARKS

Claims 12-26 are pending in this application.

Applicants appreciate the Examiner's prompt allowance of claims 12-23. Applicants' response to the rejection of claims 24-26 set forth in the Final Office Action is set forth below.

Applicants respectfully request reconsideration of the rejection of claims 24-26 under 35 U.S.C. § 102(e) as being anticipated by Sun et al. (U.S. Patent Publication No. US 2002/0100416 A1). As will be explained below, Applicants had possession of the claimed invention defined in claims 24-26 before the effective date of the Sun et al. reference, i.e., before January 30, 2001.

Applicants are attaching the Declaration Under 37 C.F.R. § 1.131 ("the Declaration") of Craig A. Scheer and John C. Stover, the inventors named in the subject application (please note that the attached Declaration includes both an original page 3, which is unsigned, and also a facsimile copy of page 3, which has been signed by the inventors). The Declaration sets forth facts that demonstrate that the inventors built and successfully operated a particle deposition system having the features specified in independent claim 24 before the effective date of the Sun et al. reference. In light of the evidence set forth in the Declaration, Applicants had possession of the claimed invention as defined in independent claim 24 before the effective date of the Sun et al. reference. Accordingly, Applicants respectfully submit that the Sun et al. reference does not qualify as prior art against the subject matter defined in independent claim 24, and request that the anticipation rejection of claims 24-26 based on the Sun et al. reference be withdrawn.

In view of the foregoing, the Sun et al. reference is not available as prior art against independent claim 24 of the subject application. As such, independent claim 24 is patentable under 35 U.S.C. § 102(e) over the prior art of record. Claims 25 and 26, each of which

Application No. 10/074,354
Request for Reconsideration dated April 30, 2004
Submitted with RCE in Response to Final Office Action mailed November 3, 2003

depends from claim 24, are likewise patentable under 35 U.S.C. § 102(e) over the prior art of record for at least the same reasons set forth regarding claim 24.

In view of the foregoing, Applicants respectfully request reconsideration and reexamination of claims 24-26, and submit that claims 24-26 are in condition for allowance along with allowed claims 12-23. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at **(408) 749-6902**. If any additional fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. SCATP001).

Respectfully submitted,
MARTINE & PENILLA, L.L.P.



Peter B. Martine
Reg. No. 32,043

710 Lakeway Drive, Suite 170
Sunnyvale, California 94085
(408) 749-6900
Customer Number 25920